

Appl. No. : 10/071,006

REMARKS

This Amendment is responsive to the Office Action April 19, 2004. In said Office Action the Examiner rejected claims 6-10 under 35 USC 112, second paragraph as being indefinite due to the fact that it was unclear by what standard of performance the soil amendment is judged to be "improved". The Examiner suggested that deletion of the "characterized by improved nutrient bioavailability" would overcome this rejection and accordingly claim 6 has been amended to delete this language.

In addition, claims 17-18 stand rejected under 35 USC 112 as being indefinite as the preamble to claim 17 indicates "closed" claim drafting language which would preclude the additional step recited in claim 18. Accordingly, claim 17 has been amended to recite the addition of clay rather than sand as the specification states that unwashed sand often includes clay (page 9, lines 21-22). As the instant Office Action does not cite any prior art against claims 17-18, and claim 18 has been cancelled, attorney for applicant believes that claim 17 is now allowable.

Claim 20 stands rejected under 35 USC 112 as being indefinite as it is directed to a media made by the "process according to claim 11" and confusion arises due to the fact that claim 11 is directed to a media product, not a process. As currently amended, claim 20 is directed to a soilless media product with clay as an additional element. Applicant believes that this amendment overcomes the 112 rejection.

The Examiner has objected to claims 13-16 and 19 as being dependent on a rejected base claim, but are allowable over prior art. As claims 13, 14, 15 and 16 recite

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specific embodiments of the invention, each has been re-written as an independent claim. The appropriate fee of \$129.00 is enclosed, small entity status having been previously established. In addition, as claim 19 is not dependent on any of claims 12 through 16 inclusive, it is not clear what the Examiner intended in the Office Action.

With respect to the substantive portion of the Office Action, claims 6-9, and 11-12 stand rejected under 35 USC Sec. 103(e) as being obvious over JP 62-99353 in view of USP 5,906,436 to Cole and USP 5,741,34 to Warkentin. The Examiner has taken the position that JP 99353 describes a process of producing a soil amendment comprising blending swine solids with sawdust to produce a swine solids mix, composting the swine solid mix in two fermentation stages totaling 30-45 days (i.e., about 4-6 weeks) followed by curing during a final fermentation period lasting six months. The Examiner asserts that the reference does not teach stopping the final curing stage after about six weeks and for this step, the Examiner has cited the Cole reference which teaches "that Cole teaches that curing is a known result-effective variable in composting and that it would have been obvious to have varied the curing times, including the final curing stage taught by the Japanese reference, i.e., various times less than six months and longer than six months to optimize the process and arrive at a stabilized product."

Applicant respectfully disagrees with the Examiner on the obviousness rejection as outlined above. More specifically, the Japanese reference fails to teach or remotely suggest that the dung/sawdust mixture created is in and of itself useful. The entire

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reason for creating the mixture is to extract, at the end of the process amino acids. Further, the amino acids are only available upon the addition of hydrochloric acid which would destroy the potential product formed during the composting step. In addition, the Cole reference is essentially an equipment disclosure and fails to teach the usefulness of a swine solid/carbon source mixture. Notwithstanding the foregoing, Applicant has amended claim 6 to further distinguish over the prior art and to highlight the novelty of the present invention by reciting the particular ratios of the swine solids and the carbon source.

Withdrawn claims 1-5 have been cancelled.

It is thus felt that when the Examiner reconsiders the claims in light of the above comments, he will agree that the invention is in no way an obvious combination of the Japanese reference and the patent to Cole. It is believed that when this case is reconsidered, the Examiner will find it to be in order for favorable action, and such action is now respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert G. Rosenthal', with a stylized flourish at the end.

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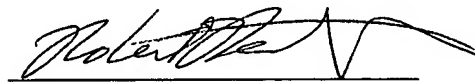
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, POB 1450, Alexandria VA 22313-1450 on June 21, 2004.



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21 JUN 2004
Date